



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12VAC5-407
<b>Regulation title</b>	Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information
<b>Document preparation date</b>	May 8, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

### Legal basis

*Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.*

Section 32.1-12 of the Code of Virginia authorizes the Board of Health (Board) to promulgate regulations that are necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-276.4 of the Code of Virginia requires the State Health Commissioner to contract with a nonprofit organization to "collect, compile, and publish Health Employer Data and Information Set (HEDIS) information or reports or other quality of care or performance information sets approved by the Board pursuant to § 32.1-276.5, and submitted by health maintenance organizations or other health care plans."

Section 32.1-276.5 of the Code of Virginia requires that HMOs "shall annually submit to the Commissioner, to make available to consumers who make health benefit enrollment decisions, audited data consistent with the latest version of the Health Employer Data and Information Set (HEDIS), as required by the National Committee for Quality Assurance, or any other quality of care or performance information set as approved by the Board. The Commissioner, at his discretion, may grant a waiver of the HEDIS or other approved quality of care or performance information set upon a determination by the Commissioner that the health maintenance organization has met Board-approved exemption criteria. The Board shall promulgate regulations to implement the provisions of this section." This section also requires that the Commissioner

make available to consumers the HMO data. The Board is required to evaluate biennially the impact and effectiveness of the data collected.

Section 32.1-276.8 of the Code of Virginia grants the Board the authority to prescribe a tiered-fee structure based on the number of enrollees for each health maintenance organization to cover the costs of collecting and making available the data.

**Alternatives**

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

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This regulation was clearly and directly mandated by law.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No comments regarding this regulation were received.

**Effectiveness**

*Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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For Virginia consumers who make health insurance decisions, it is often difficult to obtain information about the quality of health maintenance organizations (HMO). The regulation requires that each HMO annually submit its quality of care data to the State Health Commissioner via contract with the Virginia health Information, Inc (VHI). In turn, VHI makes the information available to consumers via the Internet as well as published booklets.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The department has determined that the regulation should stay in effect without change.

**Family impact**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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There is no direct impact on the family or family unit.